UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

CHRISTOPHER DESMANGLES

Plaintiff,

vs.

NAVIENT SOLUTIONS, INC.,

Defendant.

Case No.:

COMPLAINT AND DEMAND FOR JURY TRIAL

1. THE TELEPHONE CONSUMER PROTECTION ACT [47 U.S.C. § 227 et. Seq.]

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff, Christopher Desmangles ("Plaintiff"), through his attorneys, alleges the following against Defendant, Navient Solutions, Inc., ("Defendant"):

INTRODUCTION

1. Count I of Plaintiff's Complaint is based upon the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227. The TCPA is a federal statute that broadly regulates the use of automated telephone equipment. Among other things, the TCPA prohibits certain unsolicited marketing calls, restricts the use of automatic dialers or prerecorded messages, and delegates rulemaking authority to the Federal Communications Commission ("FCC").

JURISDICTION AND VENUE

2. Jurisdiction of the Court arises under 47 U.S.C. §227 et seq.

3. Venue in this district is proper pursuant to 28 U.S.C. 1391(b)(2) in that a substantial part of the events or omissions giving rise to the claim occurred in this District.

4. Defendant transacts business here; personal jurisdiction is established.

PARTIES

5. Plaintiff is a natural person residing in New York, New York County, New York.

6. Defendant is a Creditor engaged in the business of loan servicing with its principal place of business located at 2001 Edmund Halley Drive, Reston, Virginia 20190. Defendant can be served with process through Corporation Service Company, 80 State Street, Albany, NY 12207-2543.

7. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

8. Defendant was attempting to collect an alleged debt from Plaintiff.

9. In or around December 2016, Defendant began placing calls to Plaintiff's cellular phone number (347) 350-4709, in an attempt to collect an alleged debt.

10. The calls mainly originated from the following numbers: (202) 899-1316, (856) 242-2503, (765) 637-0793, (512) 354-2002, (615) 432-4232, (856) 242-2501, (317) 550-5602, (202) 899-1315, (512) 354-2004, (513) 914-4615, (856) 242-2502, (866) 615-6319, (302) 261-5690, (856) 242-2505, (866) 498-4119, (617) 762-5955, (703) 439-1081, (386) 209-0335, and (570) 904-8748. Upon information and belief, these numbers are owned or operated by Defendant.

11. On or about January 06, 2017 at 10:26 a.m. Plaintiff answered a call from Defendant, on his cellular telephone, originating from (202) 899-1315. Plaintiff heard a pause before the representative began to speak, indicating the use of an Automated Telephone Dialing System.

12. Plaintiff spoke with a Defendant's representative and was informed that he or she was attempting to collect a debt. On that call, Plaintiff unequivocally revoked consent to be contacted further.

13. Despite Plaintiff unequivocally revoking consent to be contacted, Defendant continued to call Plaintiff on his cellular phone.

14. On or about January 27, 2017 at 09:43 a.m., Plaintiff answered a second call from Defendant on his cellular phone, originating from (856) 242-2501. Plaintiff heard a pause before the representative began to speak, indicating the use of an Automated Telephone Dialing System.

15. Plaintiff spoke with a representative, and for a second time, Plaintiff unequivocally revoked consent to be contacted.

16. Despite Plaintiff unequivocally revoking consent be contacted, Defendant continued to call Plaintiff on his cellular phone nearly every day.

17. On or about April 21, 2017, Plaintiff answered a call from Defendant on his cellular phone, originating from (856) 242-2505. Plaintiff heard a pause before the representative began to speak, indicating the use of an Automated Telephone Dialing System.

18. Plaintiff spoke with a representative named "Erica Smith". Plaintiff informed the representative that he cannot make any payments at this time. Plaintiff then unequivocally revoked consent to be contacted on his cellular phone for the third time.

19. The representative informed Plaintiff that the calls would not stop until a payment is received.

20. Despite Plaintiff repeatedly and unequivocally revoking consent to be contacted, Defendant continued to contact Plaintiff on his cellular phone.

21. Plaintiff would receive anywhere between one (1) to six (6) calls per day.

22. On or about February 21, 2017, Plaintiff was contacted five (5) times by Defendant.

23. On or about February 28, 2017, Plaintiff was contacted four (4) times by Defendant.

24. On or about March 7, 2017, Plaintiff was contacted six (6) times within approximately a 6-hour time period.

25. On April 25, 2017, Plaintiff was contacted six (6) times within six (6) hours.

26. The next day, On or about April 26, 2017, Plaintiff was contacted four (4) times within four (4) hours.

27. On or about April 27, 2017, Plaintiff was contacted six (6) times by Defendant.

28. The very next day on April 28, 2017, Plaintiff was again contacted six (6) times by Defendant.

29. Upon information and belief, Defendant has contacted Plaintiff between January 6, 2017 and June 1, 2017 approximately two hundred and fifteen (215) times after having unequivocally revoked consent to be contacted on three (3) separate occasions.

30. Plaintiff is an accountant and often meets with clients. Plaintiff's cellular phone is vital to his success, which requires his cellular phone to be on him at all times. The incessant calls to his cellular phone would often disrupt his meetings, inducing stress and anxiety.

31. In addition to the calls Plaintiff received to his cellular phone, Defendant would contact Plaintiff at his work.

32. On or about April 18, 2017, Defendant's representative by the name of "Andy Pumpfree" left a voicemail on Plaintiff's work phone.

33. On or about April 19, 2017, Plaintiff received another voicemail from a representative named "Cindy Bisole".

34. The calls to Plaintiff's work would often put him in a compromising position, requiring him to answer questions concerning his personal matters with his superiors.

35. As a result of Defendant's conduct, Plaintiff has sustained actual damages including but not limited to, emotional and mental pain and anguish.

COUNT I

(Violations of the TCPA, 47 U.S.C. § 227)

36. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

37. Defendant violated the TCPA. Defendant's violations include, but are not limited to the following:

a) Within 1 year prior to the filing of this action, on multiple occasions, Defendant violated TCPA 47 U.S.C. § 227 (b)(1)(A)(iii) which states in pertinent part, "It shall be unlawful for any person within the United States . . . to make any call (other than a call made for emergency purposes or made with the prior express consent of the called party) using any automatic telephone dialing system or an artificial or prerecorded voice — to any telephone number assigned to a . . . cellular telephone service . . . or any service for which the called party is charged for the call.

b) Within 1 year prior to the filing of this action, on multiple occasions, Defendant willfully and/or knowingly contacted Plaintiff at Plaintiff's cellular telephone using an artificial prerecorded voice or an automatic telephone dialing system and as such, Defendant knowing and/or willfully violated the TCPA.

38. As a result of Defendant's violations of 47 U.S.C. § 227, Plaintiff is entitled to an award of five hundred dollars ($500.00) in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B). If the Court finds that Defendant knowingly and/or willfully violated the TCPA, Plaintiff is entitled to an award of one thousand five hundred dollars ($1,500.00), for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Christopher Desmangles, respectfully requests judgment be entered against Defendant, Navient Solutions, Inc., for the following:

A. Actual damages pursuant to 47 U.S.C. § 227(b)(3)(B); or

B. Statutory damages pursuant to 47 U.S.C. § 227(b)(3)(B); and/or

C. Punitive damages pursuant to 47 U.S.C. § 227(b)(3)(C);

D. Any pre-judgment and post-judgment interest as may be allowed under the law; and

E. For such other and further relief as the Court may deem just and proper.

RESPECTFULLY SUBMITTED,

Dated: June 30, 2017

By:*/s/ Daniel Ruggiero*

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